

Calendar No. 246

105TH CONGRESS  
1ST Session

**S. 538**

[Report No. 105-131]

**A BILL**

To authorize the Secretary of the Interior to convey certain facilities of the Minidoka project to the Burley Irrigation District, and for other purposes.

NOVEMBER 3, 1997

Reported with an amendment

## Calendar No. 246

105TH CONGRESS  
1ST SESSION**S. 538****[Report No. 105–131]**

To authorize the Secretary of the Interior to convey certain facilities of the Minidoka project to the Burley Irrigation District, and for other purposes.

---

IN THE SENATE OF THE UNITED STATES

APRIL 9, 1997

Mr. CRAIG (for himself and Mr. KEMPTHORNE) introduced the following bill; which was read twice and referred to the Committee on Energy and Natural Resources

NOVEMBER 3, 1997

Reported by Mr. MURKOWSKI, with an amendment

[Strike out all after the enacting clause and insert the part printed in *italic*]

---

**A BILL**

To authorize the Secretary of the Interior to convey certain facilities of the Minidoka project to the Burley Irrigation District, and for other purposes.

- 1 *Be it enacted by the Senate and House of Representa-*
- 2 *tives of the United States of America in Congress assembled,*
- 3 **SECTION 1. CONVEYANCE OF FACILITIES.**
- 4 ~~(a) DEFINITIONS.—In this section:~~

1           (1) BURLEY.—The term “Burley” means the  
2           Burley Irrigation District, an irrigation district or-  
3           ganized under the law of the State of Idaho.

4           (2) DIVISION.—The term “Division” means the  
5           Southside Pumping Division of the Minidoka  
6           project, Idaho.

7           (3) SECRETARY.—The term “Secretary” means  
8           the Secretary of the Interior.

9           (b) CONVEYANCE.—

10           (1) IN GENERAL.—The Secretary shall, without  
11           consideration or compensation except as provided in  
12           this section, convey to Burley, by quitclaim deed or  
13           patent, all right, title, and interest of the United  
14           States in and to the withdrawn and acquired lands,  
15           easements, and rights-of-way of or in connection  
16           with the Division, together with the pumping plants,  
17           canals, drains, laterals, roads, pumps, checks,  
18           headgates, transformers, pumping plant substations,  
19           buildings, transmission lines, and other improve-  
20           ments or appurtenances to the land or used for the  
21           delivery of water from the headworks of the South-  
22           side Canal at the Minidoka Dam and reservoir to  
23           land in Burley, including all facilities used in con-  
24           junction with the Division (including the electric  
25           transmission lines used to transmit electric power

1 for the operation of the pumping facilities of the Di-  
 2 vision and related purposes for which the allocable  
 3 construction costs have been fully repaid by Burley).

4 (2) COSTS.—The first \$80,000 in administra-  
 5 tive costs of transfer of title and related activities  
 6 shall be paid in equal shares by the United States  
 7 and Burley, and any additional amount of adminis-  
 8 trative costs shall be paid by the United States.

9 (c) WATER RIGHTS.—

10 (1) TRANSFER.—The Secretary shall transfer  
 11 to Burley, through an agreement among Burley, the  
 12 Minidoka Irrigation District, and the Secretary, in  
 13 accordance with and subject to the law of the State  
 14 of Idaho, all natural flow, waste, seepage, return  
 15 flow, and ground water rights held in the name of  
 16 the United States for the benefit of, and for use on  
 17 land within, the Burley Irrigation District.

18 (2) ALLOCATION OF STORAGE SPACE.—The al-  
 19 location to Burley of storage space in Minidoka Res-  
 20 ervoir, American Falls Reservoir, and Palisades Res-  
 21 ervoir, in accordance with Burley Contract Nos. 14-  
 22 06-100-2455 and 14-06-W-48 is affirmed, subject  
 23 to the obligation of Burley to continue to assume  
 24 and satisfy its allocable costs of operation and main-

1       tenance associated with the storage facilities oper-  
2       ated by the Bureau of Reclamation.

3       ~~(d) PROJECT RESERVED POWER.—~~

4               ~~(1) IN GENERAL.—~~The Secretary shall continue  
5       to provide Burley with a permanent right to project  
6       reserved power from the Minidoka Reclamation  
7       Power Plant, Palisades Reclamation Power Plant,  
8       Black Canyon Reclamation Power Plant, and Ander-  
9       son Ranch Reclamation Power Plant at the cost of  
10      production and delivery to Burley in accordance with  
11      understandings and commitments made by the Sec-  
12      retary in acquiring the plants, the reclamation laws,  
13      and contracts for electric power in existence of the  
14      date of enactment of this Act.

15             ~~(2) RIGHT OF FIRST REFUSAL.—~~If the United  
16      States decides to transfer out of Federal ownership  
17      title to the Minidoka Power Plant or Dam, the Sec-  
18      retary shall grant to entities entitled to storage  
19      water in Lake Walcott (the reservoir created by  
20      Minidoka Dam) under spaceholder contracts with  
21      the United States a right of first refusal to acquire  
22      the power plant or dam and related facilities at such  
23      reasonable cost and subject to such terms and condi-  
24      tions as may be agreed on by the spaceholders and  
25      the Secretary.

1       (e) **RIGHT OF JOINT USE.**—Burley shall continue to  
 2 recognize the right of Minidoka Irrigation District to the  
 3 joint use of the gravity portion of the Southside Canal  
 4 being transferred to Burley, subject to compliance by the  
 5 Minidoka Irrigation District with the terms and conditions  
 6 of a contract between Burley and Minidoka Irrigation Dis-  
 7 trict, and any amendments or changes made by agreement  
 8 of the irrigation districts.

9       (f) **LIABILITY.**—

10           (1) **IN GENERAL.**—Effective on the date of con-  
 11 veyance of the lands, easements, and rights-of-way  
 12 under subsection (b), the United States shall not be  
 13 held liable by any court for damages of any kind  
 14 arising out of any act, omission, or occurrence relat-  
 15 ing to the conveyed lands, easements, and right-of-  
 16 way, except for damage caused by an act of neg-  
 17 ligence or other tortious conduct committed by the  
 18 United States or by its employees, agents, or con-  
 19 tractors of the United States before the conveyance.

20           (2) **NO INCREASE IN LIABILITY.**—Paragraph  
 21 (1) does not increase the liability of the United  
 22 States beyond that currently provided in chapter  
 23 171 of title 28, United States Code (commonly  
 24 known as the “Federal Tort Claims Act”).

25       (f) **COMPLETION OF CONVEYANCE.**—

1           ~~(1) IN GENERAL.—The Secretary shall complete~~  
 2           ~~the conveyance under subsection (b) (including such~~  
 3           ~~action as may be required under the National Envi-~~  
 4           ~~ronmental Policy Act of 1969 (42 U.S.C. 4321 et~~  
 5           ~~seq.)) not later than 2 years after the date of enact-~~  
 6           ~~ment of this Act.~~

7           ~~(2) DEFAULT.—If the conveyance is not com-~~  
 8           ~~pleted by January 1, 2000, through no fault of Bur-~~  
 9           ~~ley—~~

10                   ~~(A) the right, title, and interest of the~~  
 11                   ~~United States described in subsection (b)(1) are~~  
 12                   ~~conveyed to Burley on that date by operation of~~  
 13                   ~~law; and~~

14                   ~~(B) the Secretary shall provide evidence of~~  
 15                   ~~the conveyance at the request of Burley.~~

16 **SECTION 1. CONVEYANCE OF FACILITIES.**

17           ~~(a) DEFINITIONS.—In this section:~~

18                   ~~(1) BURLEY.—The term “Burley” means the~~  
 19                   ~~Burley Irrigation District, an irrigation district or-~~  
 20                   ~~ganized under the law of the State of Idaho.~~

21                   ~~(2) DIVISION.—The term “Division” means the~~  
 22                   ~~Southside Pumping Division of the Minidoka project,~~  
 23                   ~~Idaho.~~

24                   ~~(3) SECRETARY.—The term “Secretary” means~~  
 25                   ~~the Secretary of the Interior.~~

1       (b) CONVEYANCE.—

2               (1) *IN GENERAL.*—*The Secretary shall, without*  
3       *consideration or compensation except as provided in*  
4       *this section, convey to Burley, by quitclaim deed or*  
5       *patent, all right, title, and interest of the United*  
6       *States in and to acquired lands, easements, and*  
7       *rights-of-way of or in connection with the Division,*  
8       *together with the pumping plants, canals, drains,*  
9       *laterals, roads, pumps, checks, headgates, transform-*  
10       *ers, pumping plant substations, buildings, trans-*  
11       *mission lines, and other improvements or appur-*  
12       *tenances to the land or used for the delivery of water*  
13       *from the headworks (but not the headworks them-*  
14       *selves) of the Southside Canal at the Minidoka Dam*  
15       *and reservoir to land in Burley, including all facili-*  
16       *ties used in conjunction with the Division (including*  
17       *the electric transmission lines used to transmit elec-*  
18       *tric power for the operation of the pumping facilities*  
19       *of the Division and related purposes for which the al-*  
20       *locable construction costs have been fully repaid by*  
21       *Burley).*

22               (2) *COSTS.*—*The first \$80,000 in administrative*  
23       *costs of transfer of title and related activities shall be*  
24       *paid in equal shares by the United States and Bur-*



1      *ley, and any additional amount of administrative*  
 2      *costs shall be paid by the United States.*

3      *(c) WATER RIGHTS.—*

4            *(1) TRANSFER.—The Secretary shall transfer to*  
 5      *Burley, through an agreement among Burley, the*  
 6      *Minidoka Irrigation District, and the Secretary, in*  
 7      *accordance with and subject to the law of the State*  
 8      *of Idaho, all natural flow, waste, seepage, return flow,*  
 9      *and ground water rights held in the name of the*  
 10     *United States for the benefit of, and for use on land*  
 11     *within, the Burley Irrigation District as described in*  
 12     *the contracts between Burley and the United States*  
 13     *including the provisions on use of any waste, seepage,*  
 14     *and return flow set forth in such contracts: Provided,*  
 15     *That such transfer shall not impair the integrated op-*  
 16     *eration of the Minidoka project, affect any other adju-*  
 17     *dicated rights, or result in any adverse impact on*  
 18     *any other project water user.*

19           *(2) ALLOCATION OF STORAGE SPACE.—The Sec-*  
 20     *retary shall provide an allocation to Burley of storage*  
 21     *space in Minidoka Reservoir, American Falls Res-*  
 22     *ervoir, and Palisades Reservoir, as described in Bur-*  
 23     *ley Contract Nos. 14-06-100-2455 and 14-06-W-48,*  
 24     *subject to the obligation of Burley to continue to as-*  
 25     *sume and satisfy its allocable costs of operation and*

1        *maintenance associated with the storage facilities op-*  
 2        *erated by the Bureau of Reclamation.*

3        *(d) PROJECT RESERVED POWER.—The Secretary shall*  
 4        *continue to provide Burley with project reserved power from*  
 5        *the Minidoka Reclamation Power Plant, Palisades Rec-*  
 6        *lamation Power Plant, Black Canyon Reclamation Power*  
 7        *Plant, and Anderson Ranch Reclamation Power Plant in*  
 8        *accordance with the terms of the existing contracts, includ-*  
 9        *ing any renewals thereof as provided in such contracts.*

10       *(e) SAVINGS.—*

11           *(1) Nothing in this Act or any transfer pursuant*  
 12        *thereto shall affect the right of Minidoka Irrigation*  
 13        *District to the joint use of the gravity portion of the*  
 14        *Southside Canal, subject to compliance by the*  
 15        *Minidoka Irrigation District with the terms and con-*  
 16        *ditions of a contract between Burley and Minidoka*  
 17        *Irrigation District, and any amendments or changes*  
 18        *made by agreement of the irrigation districts.*

19           *(2) Nothing in this Act shall affect the rights of*  
 20        *any person or entity except as may be specifically*  
 21        *provided herein.*

22        *(f) LIABILITY.—Effective on the date of conveyance of*  
 23        *the project facilities, described in section (1)(b)(1), the Unit-*  
 24        *ed States shall not be held liable by any court for damages*  
 25        *of any kind arising out of any act, omission, or occurrence*

1 *relating to the conveyed facilities, except for damages caused*  
2 *by acts of negligence committed by the United States or by*  
3 *its employees, agents, or contractors prior to the date of con-*  
4 *veyance. Nothing in this section shall be deemed to increase*  
5 *the liability of the United States beyond that currently pro-*  
6 *vided in the Federal Tort Claims Act, 28 U.S.C. 2671 et*  
7 *seq.*

8 (g) *COMPLETION OF CONVEYANCE.*—

9 (1) *IN GENERAL.*—*The Secretary shall complete*  
10 *the conveyance under subsection (b) (including such*  
11 *action as may be required under the National Envi-*  
12 *ronmental Policy Act of 1969 (42 U.S.C. 4321 et*  
13 *seq.)) not later than 2 years after the date of enact-*  
14 *ment of this Act.*

15 (2) *REPORT.*—*The Secretary shall provide a re-*  
16 *port to the Committee on Resources of the United*  
17 *States House of Representatives and to the Committee*  
18 *on Energy and Natural Resources of the United*  
19 *States Senate within eighteen months from the date*  
20 *of enactment of this Act on the status of the transfer,*  
21 *any obstacles to completion of the transfer as provided*  
22 *in this section, and the anticipated date for such*  
23 *transfer.*